

1 GENERAL GOVERNMENT CABINET

2 Board of Dentistry

3 (New Administrative Regulation)

4 201 KAR 8:540. Dental practices.

5 RELATES TO: 42 U.S.C. sec. 300ee-2 note, 2010 Ky. Acts ch. 85, sec. 10

6 STATUTORY AUTHORITY: 2010 Ky. Acts ch. 85, sec. 10(1)

7 NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. Section 300ee-2 note requires each state  
8 to institute the guidelines issued by the United States Centers for Disease Control and Prevention or  
9 guidelines which are equivalent to those promulgated by the Centers for Disease Control and Prevention  
10 concerning recommendations for preventing the transmission of the human immunodeficiency virus and  
11 the hepatitis B virus during exposure-prone invasive procedures, and 2010 Ky. Acts ch. 85, sec. 10 (1)  
12 requires the board to promulgate administrative regulations relating to dental practices which shall  
13 include minimal requirements for documentation and Centers for Disease Control compliance. This  
14 administrative regulation establishes these requirements.

15 Section 1. Definitions. "Invasive procedure" means any procedure which penetrates hard or soft tissue.

16 Section 2. Minimum Documentation Standards for all Dental Patients.

17 (1) Each patient's dental records shall be kept by the dentist for a minimum of:

18 (a) Seven (7) years from the date of the patient's last treatment;

19 (b) Seven (7) years after the patient's eighteenth (18) birthday, if the patient was seen as a minor;

20 or

21 (c) Two (2) years following the patient's death.

(2) Each dentist shall comply with KRS 422.317 regarding the release of patient records.

(3) Each patient record for a dental patient in the Commonwealth of Kentucky shall include at a minimum:

(a) The patient's name;

(b) The patient's date of birth;

(c) The patient's medical history;

(d) The date of treatment;

(e) The tooth number, surfaces, or areas to be treated;

(f) The material used in treatment;

(g) Local or general anesthetic used, the type, and the amount;

(h) Sleep or sedation dentistry medications used, the type, and the amount; and

(i) A complete list of prescriptions provided to the patient, the amount given, and the number of refills indicated.

### Section 3. Infection Control Compliance.

(1) Each licensed dentist in the Commonwealth of Kentucky shall:

(a) Adhere to the universal precautions outlined in the "Guidelines for Infection Control in Dental Health-Care Settings" published by the Centers for Disease Control and Prevention; and

(b) Ensure that any person under the direction, control, supervision, or employment of a licensee whose activities involve contact with patients, teeth, blood, body fluids, saliva, instruments, equipment, appliances, or intra-oral devices adheres with those same universal precautions.

(2) The board or its designee may perform an infection control inspection of a dental practice utilizing the "Infection Control Inspection Checklist".

(3) Any dentist who is found deficient upon an initial infection control inspection shall have

thirty (30) days to be in compliance with the guidelines and submit a written plan of correction to the board. The dentist may receive a second inspection after the thirty (30) days have passed. If the dentist fails the second inspection they shall be immediately temporarily suspended pursuant to 2010 Ky. Acts ch. 85, sec. 14 until proof of compliance is provided to the board and they shall pay the fine as prescribed in 201 KAR 8:520.

(4) Any licensed dentist, licensed dental hygienist, registered dental assistant, or dental assistant in training for registration who performs invasive procedures may seek counsel from the board if he or she tests seropositive for the human immunodeficiency virus or the hepatitis B virus.

(5) Upon the request of a licensee or registrant, the executive director of the board or his designee shall convene a confidential expert review panel to offer counsel regarding under what circumstances, if any, the individual may continue to perform invasive procedures.

Section 4. Termination of a Patient-Doctor Relationship. In order for a licensed dentist to terminate the patient-doctor relationship, the dentist shall:

(1) Provide written notice to the patient of the termination;

(2) Provide emergency treatment for the patient for thirty (30) days from the date of termination; and

(3) Retain a copy of the letter of termination in the patient records.

Section 5. Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) "Guidelines for Infection Control in Dental Health-Care Settings", December 2003; and

(b) "Infection Control Inspection Checklist", July 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky,

1 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the  
2 board's Web site at <http://dentistry.ky.gov>.

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DR. WILLIAM P. BOGGESS, DMD, Board President

July 10, 2010

Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on Tuesday, August 31, 2010, at 9:00 a.m. at the office of the Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, KY 40222. Individuals interested in being heard at this hearing shall notify this agency in writing no later than August 24, 2010, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until August 31, 2010.

Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Brian K. Bishop, Executive Director, Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, KY, 40222. Phone (502) 429-7280, fax (502) 429-7282, email [briank.bishop@ky.gov](mailto:briank.bishop@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: **201 KAR 8:540. Dental practices.**

Contact Person: Brian K. Bishop, Executive Director  
Board of Dentistry

(1) Provide a brief summary of:

(a) What this administrative regulation does: **This administrative regulation establishes requirements and procedures dentist as related to documentation of patient records, infection control, and termination of the doctor patient relationship as required by 2010 Ky. Acts ch. 85, sec. 10.**

(b) The necessity of this administrative regulation: **This administrative regulation is necessary to implement 2010 Ky. Acts ch. 85, sec. 10, which requires the board to promulgate administrative regulations regarding the requirements for documentation in a patient record, infection control, and other parts of the dental practice.**

(c) How this administrative regulation conforms to the content of the authorizing statute: **This administrative regulation is necessary to implement 2010 Ky. Acts ch. 85, sec. 10, which requires the board to promulgate administrative regulations regarding the requirements for documentation in a patient record, infection control, and other parts of the dental practice.**

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: **This administrative regulation is necessary to implement 2010 Ky. Acts ch. 85, sec. 10, which requires the board to promulgate administrative regulations regarding the requirements for documentation in a patient record, infection control, and other parts of the dental practice.**

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: **N/A**

(b) The necessity of the amendment to this administrative regulation: **N/A**

(c) How the amendment conforms to the content of the authorizing statute: **N/A**

(d) How the amendment will assist in the effective administration of the statutes: **N/A**

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: **This administrative regulation will affect the 3119 dentist currently licensed by the board as well as any new dentist licensed by the board in the future. Additionally, the Kentucky Board of Dentistry will be affected by this administrative regulation.**

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: **There are no new actions for licensees to take in order to comply with this administrative regulation. The Kentucky Board of Dentistry is charged by 2010 Ky. Acts ch. 85 to regulate the practice of dentistry in the Commonwealth.**

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): **There will be no new cost to the licensees with this emergency administrative regulation. The Board is a self funded agency who's budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of \$705,400 and for FY 2011 – 2012 and allotment of \$714,000.**

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): **The Kentucky Board of Dentistry is the regulatory agency and accrues no benefits from the regulations but rather provides enforcement of the chapter and processes for it licensees to legally practice dentistry in the Commonwealth.**

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: **The Board is a self funded agency whose budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of \$705,400 and for FY 2011 – 2012 and allotment of \$714,000. The Kentucky Board of Dentistry receives no monies from the General Fund.**

(a) Initially: **No additional costs are expected.**

(b) On a continuing basis: **No additional costs are expected.**

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: **The implementation and enforcement of this regulation are fully funded by licensing fees paid by dentists as part of compliance with this regulation.**

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: **The fees found in 201 KAR 8:520E make the agency financially solvent.**

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: **This administrative regulation does not establish fees or directly or indirectly increase any fees.**

(9) TIERING: Is tiering applied? **Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all licensed dentist.**



## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 201 KAR 8:540.

Contact Person: Brian K. Bishop, Executive Director,  
Board of Dentistry

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes   X   No       

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Board of Dentistry is the only state government entity which will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

2010 Ky. Acts ch. 85

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

There will be no new net fiscal affect on the Kentucky Board of Dentistry as the agency is a fully self funded agency and receives no general fund dollars.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(c) How much will it cost to administer this program for the first year?

FY 2010 – 2011 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is \$705,400

(d) How much will it cost to administer this program for subsequent years?

FY 2011 – 2012 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is \$714,000

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

## **SUMMARY OF MATERIAL INCORPORATED BY REFERENCE**

(1) The “Guidelines for Infection Control in Dental Health-Care Settings” is the 76 page newsletter published by the Center for Disease Control (CDC) that outlines the universal precautions all dental health-care providers are required to follow. 2010 Ky. Acts ch. 85, sec. 10 requires the board to define procedures and requirements for compliance with CDC guidelines.

(2) The “Infection Control Inspection Checklist” is the 2 page form used during inspections of dental practices to verify that the practice is in compliance with CDC guidelines. 2010 Ky. Acts ch. 85, sec. 10 requires the board to define procedures and requirements for compliance with CDC guidelines.